
SENATE BILL 5213

State of Washington

68th Legislature

2023 Regular Session

By Senators Kuderer and Short

1 AN ACT Relating to pharmacy benefit managers; amending RCW
2 48.200.020, 48.200.210, and 48.200.280; adding a new chapter to Title
3 48 RCW; recodifying RCW 48.200.210, 48.200.220, 48.200.230,
4 48.200.240, 48.200.250, 48.200.260, 48.200.270, 48.200.280, and
5 48.200.290; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 48.200.020 and 2020 c 240 s 2 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Affiliate" or "affiliated employer" means a person who
12 directly or indirectly through one or more intermediaries, controls
13 or is controlled by, or is under common control with, another
14 specified person.

15 (2) "Certification" has the same meaning as in RCW 48.43.005.

16 (3) "Employee benefits programs" means programs under both the
17 public employees' benefits board established in RCW 41.05.055 and the
18 school employees' benefits board established in RCW 41.05.740.

19 (4)(a) "Health care benefit manager" means a person or entity
20 providing services to, or acting on behalf of, a health carrier or
21 employee benefits programs, that directly or indirectly impacts the

1 determination or utilization of benefits for, or patient access to,
2 health care services, drugs, and supplies including, but not limited
3 to:

- 4 (i) Prior authorization or preauthorization of benefits or care;
- 5 (ii) Certification of benefits or care;
- 6 (iii) Medical necessity determinations;
- 7 (iv) Utilization review;
- 8 (v) Benefit determinations;
- 9 (vi) Claims processing and repricing for services and procedures;
- 10 (vii) Outcome management;
- 11 (viii) Provider credentialing and recredentialing;
- 12 (ix) Payment or authorization of payment to providers and
13 facilities for services or procedures;
- 14 (x) Dispute resolution, grievances, or appeals relating to
15 determinations or utilization of benefits;
- 16 (xi) Provider network management; or
- 17 (xii) Disease management.

18 (b) "Health care benefit manager" includes, but is not limited
19 to, health care benefit managers that specialize in specific types of
20 health care benefit management such as (~~pharmacy benefit managers,~~)
21 radiology benefit managers, laboratory benefit managers, and mental
22 health benefit managers.

23 (c) "Health care benefit manager" does not include:

- 24 (i) Health care service contractors as defined in RCW 48.44.010;
- 25 (ii) Health maintenance organizations as defined in RCW
26 48.46.020;
- 27 (iii) Issuers as defined in RCW 48.01.053;
- 28 (iv) The public employees' benefits board established in RCW
29 41.05.055;
- 30 (v) The school employees' benefits board established in RCW
31 41.05.740;
- 32 (vi) Discount plans as defined in RCW 48.155.010;
- 33 (vii) Direct patient-provider primary care practices as defined
34 in RCW 48.150.010;
- 35 (viii) An employer administering its employee benefit plan or the
36 employee benefit plan of an affiliated employer under common
37 management and control;
- 38 (ix) A union administering a benefit plan on behalf of its
39 members;

1 (x) An insurance producer selling insurance or engaged in related
2 activities within the scope of the producer's license;

3 (xi) A creditor acting on behalf of its debtors with respect to
4 insurance, covering a debt between the creditor and its debtors;

5 (xii) A behavioral health administrative services organization or
6 other county-managed entity that has been approved by the state
7 health care authority to perform delegated functions on behalf of a
8 carrier;

9 (xiii) A hospital licensed under chapter 70.41 RCW or ambulatory
10 surgical facility licensed under chapter 70.230 RCW;

11 (xiv) The Robert Bree collaborative under chapter 70.250 RCW;

12 (xv) The health technology clinical committee established under
13 RCW 70.14.090; (~~09~~)

14 (xvi) Pharmacy benefit managers; or

15 (xvii) The prescription drug purchasing consortium established
16 under RCW 70.14.060.

17 (5) "Health care provider" or "provider" has the same meaning as
18 in RCW 48.43.005.

19 (6) "Health care service" has the same meaning as in RCW
20 48.43.005.

21 (7) "Health carrier" or "carrier" has the same meaning as in RCW
22 48.43.005.

23 (8) "Laboratory benefit manager" means a person or entity
24 providing service to, or acting on behalf of, a health carrier,
25 employee benefits programs, or another entity under contract with a
26 carrier, that directly or indirectly impacts the determination or
27 utilization of benefits for, or patient access to, health care
28 services, drugs, and supplies relating to the use of clinical
29 laboratory services and includes any requirement for a health care
30 provider to submit a notification of an order for such services.

31 (9) "Mental health benefit manager" means a person or entity
32 providing service to, or acting on behalf of, a health carrier,
33 employee benefits programs, or another entity under contract with a
34 carrier, that directly or indirectly impacts the determination of
35 utilization of benefits for, or patient access to, health care
36 services, drugs, and supplies relating to the use of mental health
37 services and includes any requirement for a health care provider to
38 submit a notification of an order for such services.

1 (10) "Network" means the group of participating providers,
2 pharmacies, and suppliers providing health care services, drugs, or
3 supplies to beneficiaries of a particular carrier or plan.

4 (11) "Person" includes, as applicable, natural persons, licensed
5 health care providers, carriers, corporations, companies, trusts,
6 unincorporated associations, and partnerships.

7 (12) (a) (~~"Pharmacy benefit manager" means a person that~~
8 ~~contracts with pharmacies on behalf of an insurer, a third-party~~
9 ~~payer, or the prescription drug purchasing consortium established~~
10 ~~under RCW 70.14.060 to:~~

11 ~~(i) Process claims for prescription drugs or medical supplies or~~
12 ~~provide retail network management for pharmacies or pharmacists;~~

13 ~~(ii) Pay pharmacies or pharmacists for prescription drugs or~~
14 ~~medical supplies;~~

15 ~~(iii) Negotiate rebates with manufacturers for drugs paid for or~~
16 ~~procured as described in this subsection;~~

17 ~~(iv) Manage pharmacy networks; or~~

18 ~~(v) Make credentialing determinations.~~

19 ~~(b) "Pharmacy benefit manager" does not include a health care~~
20 ~~service contractor as defined in RCW 48.44.010.~~

21 ~~(13)(a))~~ (13) "Radiology benefit manager" means any person or entity
22 providing service to, or acting on behalf of, a health carrier,
23 employee benefits programs, or another entity under contract with a
24 carrier, that directly or indirectly impacts the determination or
25 utilization of benefits for, or patient access to, the services of a
26 licensed radiologist or to advanced diagnostic imaging services
27 including, but not limited to:

28 (i) Processing claims for services and procedures performed by a
29 licensed radiologist or advanced diagnostic imaging service provider;
30 or

31 (ii) Providing payment or payment authorization to radiology
32 clinics, radiologists, or advanced diagnostic imaging service
33 providers for services or procedures.

34 (b) "Radiology benefit manager" does not include a health care
35 service contractor as defined in RCW 48.44.010, a health maintenance
36 organization as defined in RCW 48.46.020, or an issuer as defined in
37 RCW 48.01.053.

38 (~~(14))~~ (13) "Utilization review" has the same meaning as in RCW
39 48.43.005.

1 **Sec. 2.** RCW 48.200.210 and 2020 c 240 s 10 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this section and
4 RCW 48.200.220 through 48.200.290 (as recodified by this act) unless
5 the context clearly requires otherwise.

6 (1) "Audit" means an on-site or remote review of the records of a
7 pharmacy by or on behalf of an entity.

8 (2) "Claim" means a request from a pharmacy or pharmacist to be
9 reimbursed for the cost of filling or refilling a prescription for a
10 drug or for providing a medical supply or service.

11 (3) "Clerical error" means a minor error:

12 (a) In the keeping, recording, or transcribing of records or
13 documents or in the handling of electronic or hard copies of
14 correspondence;

15 (b) That does not result in financial harm to an entity; and

16 (c) That does not involve dispensing an incorrect dose, amount,
17 or type of medication, failing to dispense a medication, or
18 dispensing a prescription drug to the wrong person.

19 (4) "Entity" includes:

20 (a) A pharmacy benefit manager;

21 (b) An insurer;

22 (c) A third-party payor;

23 (d) A state agency; or

24 (e) A person that represents or is employed by one of the
25 entities described in this subsection.

26 (5) "Fraud" means knowingly and willfully executing or attempting
27 to execute a scheme, in connection with the delivery of or payment
28 for health care benefits, items, or services, that uses false or
29 misleading pretenses, representations, or promises to obtain any
30 money or property owned by or under the custody or control of any
31 person.

32 (6) "Pharmacist" has the same meaning as in RCW 18.64.011.

33 (7) "Pharmacy" has the same meaning as in RCW 18.64.011.

34 (8) (~~"Third-party payor" means a person licensed under RCW~~
35 ~~48.39.005.~~) "Affiliate" or "affiliated employer" means a person who,
36 through one or more intermediaries, controls or is controlled by, or
37 is under common control with, another specified person.

38 (9) "Affiliated pharmacy" means a pharmacy that through one or
39 more intermediaries is owned by, controlled by, or is under common

1 ownership or control of a pharmacy benefit manager, or where the
2 pharmacy benefit manager has financial interest in the pharmacy.

3 (10) "Certification" has the same meaning as in RCW 48.43.005.

4 (11) "Covered person" means a person directly or indirectly
5 covered by a pharmacy benefit plan or program.

6 (12) "List" means the list of drugs for which predetermined
7 reimbursement costs have been established, such as a maximum
8 allowable cost, maximum allowable cost list, or any other benchmark
9 prices utilized by the pharmacy benefit manager and must include the
10 basis of the methodology and sources utilized to determine drug
11 reimbursement amounts.

12 (13) "Mail order pharmacy" means a pharmacy not open to the
13 public which dispenses prescription drugs to patients through the
14 mail or common carrier.

15 (14) "Multiple source drug" means any covered outpatient
16 prescription drug for which there is at least one other drug product
17 that is rated as therapeutically equivalent under the food and drug
18 administration's most recent publication of "Approved Drug Products
19 with Therapeutic Equivalence Evaluations;" is pharmaceutically
20 equivalent or bioequivalent, as determined by the food and drug
21 administration; and is sold or marketed in the state.

22 (15) "Network pharmacy" means a pharmacy that contracts with a
23 pharmacy benefit manager to dispense prescription drugs to covered
24 persons.

25 (16) "Person" includes, as applicable, natural persons, licensed
26 health care providers, carriers, corporations, companies, trusts,
27 unincorporated associations, and partnerships.

28 (17) "Pharmacy benefit manager" means a person that administers
29 or manages a pharmacy benefits plan or program under a contractual
30 obligation.

31 (18) "Pharmacy benefits plan or program" means a plan or program
32 that pays for, reimburses, covers the cost of, or otherwise provides
33 for pharmacist services to individuals who reside in or are employed
34 in this state.

35 (19) "Pharmacy network" means the pharmacies located in the state
36 and contracted by the pharmacy benefit manager to dispense
37 prescription drugs to covered persons.

38 (20) "Provider administered drug" means any prescription drug
39 that requires administration by a provider as defined in RCW
40 48.43.005.

1 (21) "Specialty drug" means a drug that:

2 (a) Is subject to restricted distribution by the United States
3 food and drug administration; or

4 (b) Requires special handling, provider coordination, or patient
5 education that cannot be provided by a retail pharmacy.

6 (22) "Therapeutically equivalent" has the same meaning as in RCW
7 69.41.110.

8 NEW SECTION. Sec. 3. (1) To conduct business in this state, a
9 pharmacy benefit manager shall register with the commissioner and
10 annually renew the registration.

11 (2) To apply for registration under this section, a pharmacy
12 benefit manager shall:

13 (a) Submit an application on forms and in a manner prescribed by
14 the commissioner and verified by the applicant by affidavit or
15 declaration under chapter 5.50 RCW. Applications shall contain at
16 least the following information:

17 (i) The identity of the pharmacy benefit manager and persons with
18 any ownership or controlling interest in the applicant, including
19 relevant business licenses and tax identification numbers, and the
20 identity of any person that the pharmacy benefit manager has a
21 controlling interest in;

22 (ii) The business name, address, phone number, and contact person
23 for the pharmacy benefit manager;

24 (iii) An attestation that they have the capacity to comply with,
25 and have designated a person responsible for, compliance with state
26 and federal laws; and

27 (iv) Any other information as the commissioner may reasonably
28 require; and

29 (b) Pay an initial registration fee and annual renewal
30 registration fee as established in rule by the commissioner. The fees
31 for each registration must be set by the commissioner in an amount
32 that ensures the registration, renewal, rule-making, oversight, and
33 enforcement activities related to the requirements established under
34 this act are self-supporting.

35 (3) All receipts from fees collected by the commissioner under
36 this section shall be deposited into the insurance commissioner's
37 regulatory account created in RCW 48.02.190.

38 (4) The commissioner may deny a registration or renewal of a
39 registration of a pharmacy benefit manager if:

1 (a) There is evidence of a previous or current violation of this
2 chapter;

3 (b) The pharmacy benefit manager has not paid the required fees;
4 or

5 (c) The pharmacy benefit manager does not have the capacity to
6 comply with, or has not designated a person responsible for
7 compliance with, applicable state and federal laws.

8 (5) Any material change in the information provided to obtain or
9 renew a registration shall be filed with the commissioner within 30
10 days of the change.

11 (6) Every registered pharmacy benefit manager shall retain a
12 record of all transactions completed for a period of not less than
13 seven years from the date of their creation. All such records as to
14 any particular transaction must be kept available and open to
15 inspection by the commissioner upon request during the seven years
16 after the date of completion of such transaction.

17 NEW SECTION. **Sec. 4.** (1) A pharmacy benefit manager may not
18 administer a pharmacy benefits plan or program without a written
19 agreement describing the rights and responsibilities of the parties
20 to the contract conforming to the provisions of this chapter and any
21 rules adopted by the commissioner to implement or enforce this
22 chapter including rules governing contract content.

23 (2) A pharmacy benefit manager shall file with the commissioner,
24 in the form and manner prescribed by the commissioner, every pharmacy
25 benefits plan or program contract and every contract amendment
26 between the pharmacy benefit manager and an entity, provider,
27 pharmacy, pharmacy services administration organization, or other
28 health care benefit manager, entered into directly or indirectly in
29 support of a pharmacy benefits plan or program management contract
30 with a health carrier or employee benefits program within 30 days
31 following the effective date of the contract or contract amendment.

32 (3) Contracts filed under this section are confidential and not
33 subject to public inspection under RCW 48.02.120(2), or public
34 disclosure under chapter 42.56 RCW, if filed in accordance with the
35 procedures for submitting confidential filings through the system for
36 electronic rate and form filings and the general filing instructions
37 as set forth by the commissioner. In the event the referenced filing
38 fails to comply with the filing instructions setting forth the
39 process to withhold the contract from public inspection, and the

1 pharmacy benefit manager indicates that the contract is to be
2 withheld from public inspection, the commissioner shall reject the
3 filing and notify the pharmacy benefit manager through the system for
4 electronic rate and form filings to amend its filing to comply with
5 the confidentiality filing instructions.

6 NEW SECTION. **Sec. 5.** (1) Upon receipt of an inquiry from the
7 commissioner, a pharmacy benefit manager shall provide to the
8 commissioner within 15 business days, in the form and manner required
9 by the commissioner, a complete response to that inquiry including,
10 but not limited to, providing a statement or testimony, producing its
11 accounts, records, and files, responding to complaints, or responding
12 to surveys and general requests. Failure to make a complete or timely
13 response constitutes a violation of this chapter.

14 (2) Subject to chapter 48.04 RCW, the commissioner may take
15 action against a pharmacy benefit manager if the commissioner finds
16 that a pharmacy benefit manager has:

17 (a) Violated any provision of this chapter, or violated any rule
18 adopted by the commissioner that is applicable to pharmacy benefit
19 managers, subpoena, or order of the commissioner or of another
20 state's insurance commissioner;

21 (b) Failed to renew the pharmacy benefit manager's registration;

22 (c) Failed to pay the registration or renewal fees;

23 (d) Provided incorrect, misleading, incomplete, or materially
24 untrue information to the commissioner or to a covered person;

25 (e) Used fraudulent, coercive, or dishonest practices, or
26 demonstrated incompetence or financial irresponsibility in this state
27 or elsewhere; or

28 (f) Had a pharmacy benefit manager registration, or its
29 equivalent, denied, suspended, or revoked by the federal government
30 or in any other state, province, district, or territory.

31 (3) If the commissioner finds that a pharmacy benefit manager
32 performed any of the actions listed in subsection (2) of this
33 section, the commissioner may take any combination of the following
34 actions against the pharmacy benefit manager, other than an employee
35 benefits program:

36 (a) Place on probation, suspend, revoke, or refuse to issue or
37 renew the pharmacy benefit manager's registration;

38 (b) Issue a cease and desist order against the pharmacy benefit
39 manager;

1 (c) Fine the pharmacy benefit manager up to \$5,000 per violation;

2 (d) Issue an order requiring corrective action against the
3 pharmacy benefit manager; and

4 (e) Temporarily suspend the pharmacy benefit manager's
5 registration by an order served by mail or by personal service upon
6 the pharmacy benefit manager not less than three days prior to the
7 suspension effective date. The order shall include a notice of
8 revocation and a finding that the public safety or welfare requires
9 emergency action. A temporary suspension under this subsection (3)(e)
10 continues until proceedings for revocation are concluded.

11 (4) A pharmacy benefit manager is not exempt from any requirement
12 or provision of the chapter because it relied upon a third-party
13 vendor or subcontracting arrangement for administration of any aspect
14 of its pharmacy benefits plan or program. The duties established in
15 this chapter cannot be delegated to a third-party vendor,
16 subcontractor, or other person.

17 (5) Notwithstanding RCW 48.04.020, a stay of action is not
18 available for actions the commissioner takes by cease and desist
19 order, order on hearing, or temporary suspension.

20 NEW SECTION. **Sec. 6.** (1) A pharmacy benefit manager may not:

21 (a) Require a covered person to obtain prescriptions from a mail
22 order pharmacy unless the prescription drug is a specialty drug, and
23 must receive affirmative authorization from a covered person before
24 filling a prescription drug through a mail order pharmacy;

25 (b) Reimburse a network pharmacy an amount less than the contract
26 price between the pharmacy benefit manager and the person the
27 pharmacy benefit manager has contracted with to provide a pharmacy
28 benefits plan or program;

29 (c) Condition, deny, restrict, refuse to authorize or approve, or
30 reduce payment to a participating provider or facility for a provider
31 administered drug when all criteria for medical necessity are met,
32 because the participating provider or facility obtains the drug from
33 a wholesaler or pharmacy;

34 (d) Exclude a pharmacy from their pharmacy network based solely
35 on the pharmacy being new, open less than a defined amount of time,
36 or a license or location transfer;

37 (e) Require a covered person to pay more for their medications
38 than the pharmacy benefit manager pays the pharmacy for the
39 medication and the dispensing fee; or

1 (f) Use information obtained through claim adjudication to
2 solicit, coerce, or incentivize a patient to use their owned or
3 affiliated pharmacies.

4 (2) A pharmacy benefit manager shall:

5 (a) Include a provision in contracts with participating
6 pharmacies and pharmacy services administrative organizations that
7 authorizes the pharmacy to decline to fill a prescription if the
8 pharmacy benefit manager refuses to reimburse the pharmacy at a rate
9 that is at least equal to the pharmacy's acquisition cost of the drug
10 plus a dispensing fee;

11 (b) Regardless of the participating pharmacy, including mail
12 order pharmacies, where the covered person obtains the prescription
13 drug, apply the same copays, fees, days allowance, and other
14 conditions upon the covered person;

15 (c) Permit the covered person to receive delivery or mail order
16 of a medication through any network pharmacy; and

17 (d) Pay for patient specific assistive hardware related to
18 dispensed prescriptions including but not limited to audible
19 prescription labels for covered persons with visual impairment to
20 understand prescription label content.

21 (3) If a covered person is using a mail order pharmacy, the
22 pharmacy benefit manager shall:

23 (a) Allow for dispensing at local network pharmacies under the
24 following circumstances to ensure patient access to prescription
25 drugs:

26 (i) If the mail order prescription is delayed more than one day;
27 or

28 (ii) If the prescription drug arrives in an unusable condition;
29 and

30 (b) Ensure patients have easy and timely access to prescription
31 counseling by a pharmacist.

32 **Sec. 7.** RCW 48.200.280 and 2020 c 240 s 15 are each amended to
33 read as follows:

34 (1) ~~((The definitions in this subsection apply throughout this~~
35 ~~section unless the context clearly requires otherwise.~~

36 ~~(a) "List" means the list of drugs for which predetermined~~
37 ~~reimbursement costs have been established, such as a maximum~~
38 ~~allowable cost or maximum allowable cost list or any other benchmark~~
39 ~~prices utilized by the pharmacy benefit manager and must include the~~

1 basis of the methodology and sources utilized to determine
2 multisource generic drug reimbursement amounts.

3 ~~(b) "Multiple source drug" means a therapeutically equivalent~~
4 ~~drug that is available from at least two manufacturers.~~

5 ~~(c) "Multisource generic drug" means any covered outpatient~~
6 ~~prescription drug for which there is at least one other drug product~~
7 ~~that is rated as therapeutically equivalent under the food and drug~~
8 ~~administration's most recent publication of "Approved Drug Products~~
9 ~~with Therapeutic Equivalence Evaluations;" is pharmaceutically~~
10 ~~equivalent or bioequivalent, as determined by the food and drug~~
11 ~~administration; and is sold or marketed in the state during the~~
12 ~~period.~~

13 ~~(d) "Network pharmacy" means a retail drug outlet licensed as a~~
14 ~~pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit~~
15 ~~manager.~~

16 ~~(e) "Therapeutically equivalent" has the same meaning as in RCW~~
17 ~~69.41.110.~~

18 (2)) A pharmacy benefit manager:

19 (a) May not place a drug on a list unless there are at least two
20 therapeutically equivalent multiple source drugs, or at least one
21 generic drug available from only one manufacturer, generally
22 available for purchase by network pharmacies from national or
23 regional wholesalers;

24 (b) Shall ensure that all drugs on a list are readily available
25 for purchase by pharmacies in this state from national or regional
26 wholesalers that serve pharmacies in Washington;

27 (c) Shall ensure that all drugs on a list are not obsolete;

28 (d) Shall make available to each network pharmacy at the
29 beginning of the term of a contract, and upon renewal of a contract,
30 the sources utilized to determine the predetermined reimbursement
31 costs for ((multisource generic)) multiple source drugs of the
32 pharmacy benefit manager;

33 (e) Shall make a list available to a network pharmacy upon
34 request in a format that is readily accessible to and usable by the
35 network pharmacy;

36 (f) Shall update each list maintained by the pharmacy benefit
37 manager every seven business days and make the updated lists,
38 including all changes in the price of drugs, available to network
39 pharmacies in a readily accessible and usable format;

1 (g) Shall ensure that dispensing fees are not included in the
2 calculation of the predetermined reimbursement costs for
3 (~~multisource-generic~~) multiple source drugs;

4 (h) May not cause or knowingly permit the use of any
5 advertisement, promotion, solicitation, representation, proposal, or
6 offer that is untrue, deceptive, or misleading;

7 (i) May not charge a pharmacy a fee related to the adjudication
8 of a claim, credentialing, participation, certification,
9 accreditation, or enrollment in a network including, but not limited
10 to, a fee for the receipt and processing of a pharmacy claim, for the
11 development or management of claims processing services in a pharmacy
12 benefit manager network, or for participating in a pharmacy benefit
13 manager network;

14 (j) May not require accreditation standards inconsistent with or
15 more stringent than accreditation standards established by a national
16 accreditation organization;

17 (k) May not reimburse a pharmacy in the state an amount less than
18 the amount the pharmacy benefit manager reimburses an affiliate for
19 providing the same pharmacy services; and

20 (l) May not directly or indirectly retroactively deny or reduce a
21 claim or aggregate of claims after the claim or aggregate of claims
22 has been adjudicated, unless:

23 (i) The original claim was submitted fraudulently; or

24 (ii) The denial or reduction is the result of a pharmacy audit
25 conducted in accordance with RCW 48.200.220 (as recodified by this
26 act).

27 (~~(3)~~) (2) A pharmacy benefit manager must establish a process
28 by which a network pharmacy, or its representative, may appeal its
29 reimbursement for a drug (~~(subject to predetermined reimbursement~~
30 ~~costs for multisource generic drugs)~~). A network pharmacy may appeal
31 a (~~predetermined~~) reimbursement cost for a (~~multisource-generic~~)
32 drug if the reimbursement for the drug is less than the net amount
33 that the network pharmacy paid to the supplier of the drug. An appeal
34 requested under this section must be completed within thirty calendar
35 days of the pharmacy submitting the appeal. If after thirty days the
36 network pharmacy has not received the decision on the appeal from the
37 pharmacy benefit manager, then the appeal is considered denied.

38 The pharmacy benefit manager shall uphold the appeal of a
39 pharmacy with fewer than fifteen retail outlets, within the state of
40 Washington, under its corporate umbrella if the pharmacy or

1 pharmacist can demonstrate that it is unable to purchase a
2 therapeutically equivalent interchangeable product from a supplier
3 doing business in Washington at the pharmacy benefit manager's
4 (~~(list)~~) paid price.

5 (~~(4)~~) (3) A pharmacy benefit manager must provide as part of
6 the appeals process established under subsection (~~(3)~~) (2) of this
7 section:

8 (a) A telephone number at which a network pharmacy may contact
9 the pharmacy benefit manager and speak with an individual who is
10 responsible for processing appeals; and

11 (b) If the appeal is denied, the reason for the denial and the
12 national drug code of a drug that has been purchased by other network
13 pharmacies located in Washington at a price that is equal to or less
14 than the (~~(predetermined)~~) paid reimbursement cost for the
15 (~~(multisource-generic)~~) drug. A pharmacy with fifteen or more retail
16 outlets, within the state of Washington, under its corporate umbrella
17 may submit information to the commissioner about an appeal under
18 subsection (~~(3)~~) (2) of this section for purposes of information
19 collection and analysis.

20 (~~(5)~~) (4) (a) If an appeal is upheld under this section, the
21 pharmacy benefit manager shall make a reasonable adjustment on a date
22 no later than one day after the date of determination.

23 (b) If the request for an adjustment has come from a critical
24 access pharmacy, as defined by the state health care authority by
25 rule for purposes related to the prescription drug purchasing
26 consortium established under RCW 70.14.060, the adjustment approved
27 under (a) of this subsection shall apply only to critical access
28 pharmacies.

29 (~~(6)~~) (5) Beginning July 1, 2017, if a network pharmacy appeal
30 to the pharmacy benefit manager is denied, or if the network pharmacy
31 is unsatisfied with the outcome of the appeal, the pharmacy or
32 pharmacist may dispute the decision and request review by the
33 commissioner within thirty calendar days of receiving the decision.

34 (a) All relevant information from the parties may be presented to
35 the commissioner, and the commissioner may enter an order directing
36 the pharmacy benefit manager to make an adjustment to the disputed
37 claim, deny the pharmacy appeal, or take other actions deemed fair
38 and equitable. An appeal requested under this section must be
39 completed within thirty calendar days of the request.

1 (b) Upon resolution of the dispute, the commissioner shall
2 provide a copy of the decision to both parties within seven calendar
3 days.

4 (c) The commissioner may authorize the office of administrative
5 hearings, as provided in chapter 34.12 RCW, to conduct appeals under
6 this subsection (~~((+6))~~) (5).

7 (d) A pharmacy benefit manager may not retaliate against a
8 pharmacy for pursuing an appeal under this subsection (~~((+6))~~) (5).

9 (e) This subsection (~~((+6))~~) (5) applies only to a pharmacy with
10 fewer than fifteen retail outlets, within the state of Washington,
11 under its corporate umbrella.

12 (~~((+7))~~) (6) This section does not apply to the state medical
13 assistance program.

14 NEW SECTION. **Sec. 8.** The commissioner may adopt any rules
15 necessary to implement this act.

16 NEW SECTION. **Sec. 9.** Sections 3 through 6 and 8 of this act
17 constitute a new chapter in Title 48 RCW.

18 NEW SECTION. **Sec. 10.** RCW 48.200.210, 48.200.220, 48.200.230,
19 48.200.240, 48.200.250, 48.200.260, 48.200.270, 48.200.280, and
20 48.200.290 are each recodified as sections in chapter 48.--- RCW (the
21 new chapter created in section 9 of this act).

22 NEW SECTION. **Sec. 11.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 12.** This act takes effect January 1, 2025.

--- END ---